

MDL 1456 Status Report
State of California, *ex rel.* Ven-A-Care v. Abbott Laboratories Inc., *et al.*
Case No.: 1:03-cv-11226-PBS

First Amended Complaint in Intervention

Plaintiffs filed a First Amended Complaint in Intervention (FAC), with redacted exhibits, on August 25, 2005 (No. 1679). Plaintiffs also filed a motion for leave to file unredacted Exhibits under seal (Exhibits A-K and Exhibits M-R to the FAC) (Nos. 1680, 1703), which the Court granted via electronic order.

Motions to Dismiss

On January 17, 2006, Defendants filed a Joint Motion to Dismiss Plaintiffs' First Amended Complaint in Intervention (Nos. 2047, 2051).

On March 22, 2007, the Court denied in part and granted in part Defendants' joint motion to dismiss, and denied Abbott's individual motion to dismiss (No. 3948).

On November 6, 2008, Plaintiffs filed a Cross-Motion for an Order to Produce Michael T. Ricks (5666). The Court ruled on the underlying motion filed by the United States but has not yet ruled on the California Cross-Motion.

On December 9, 2008, Defendants Boehringer Ingelheim Corporation (No. 5761) and Boehringer Ingelheim Pharmaceuticals Inc. (5762) were dismissed with prejudice.

In addition, on December 16, 2008, the following Defendants were dismissed with prejudice:

- Abbott Laboratories, Inc. (129)
- B. Braun Medical Inc. (128)
- Baxter Healthcare Corporation (127)
- Boehringer Ingelheim Roxane Inc. f/k/a Roxane Laboratories Inc. (125)
- ZLB Behring LLC f/k/a Aventis Behring LLC and Armour (126)

Case Management Order (CMO)

The Court entered Case Management Order 31 on August 1, 2007 (No. 4586). Case Management Order 35 (No. 5664) was entered on November 4, 2008.

On November 14, 2008, the parties jointly filed a Motion to Extend Discovery Schedule and Amend Case Management Order 31 (5681) (71). The motion and proposed discovery schedule were granted by the Court on November 24, 2008 (82). On December 17, 2008, the Court entered a Case Management Order revising the schedule set forth in CMO 31 (5785). Subsequently, on December 18, 2008, the Court entered an electronic order denying the parties' motion and further revising the discovery deadlines. The parties intend to seek clarification and/or reconsideration.

Alternative Dispute Resolution

The parties filed their Fourth Joint Mediation Status Report on July 3, 2008. The fifth status report will be filed following the next mediation. The next mediation has yet to be scheduled.

CERTIFICATE OF SERVICE

I, Nicholas N. Paul, hereby certify that on December 31, 2008, I caused a true and correct copy of the foregoing, **Status Report-December 31, 2008**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Nicholas N. Paul
NICHOLAS N. PAUL
Supervising Deputy Attorney General